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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/312,922	05/17/1999	DR. VINCENT MICHAEL FIGUREDO	ICOM-00401	3206

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KENDYL ROMAN
730 BANTRY COURT
SUNNYVALE, CA 94087-3402

EXAMINER

PHILIPPE, GIMS S

ART UNIT PAPER NUMBER

2613

DATE MAILED: 01/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/312,922	FIGURED0 ET AL.	
	Examiner	Art Unit	
	Gims S. Philippe	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7, 23, 24, 26, 27 and 32-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 and 7 is/are allowed.
- 6) ☒ Claim(s) 23, 24, 26, 27 and 32-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 31, 2005 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 23-24, 26-27, and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood (US Patent no. 5715823) in view of McDonald (US Patent no. 5920317).

Regarding claims 23, 33, and 37, Wood discloses a system for transmitting data representing a video image, comprising a transmitter coupled to the medical test device for receiving and selectively distributing data representing the video image; and (See

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Wood figure 1 item 32 a modem is a transmitter), one or more remote receivers for communicating with the transmitter and configured to receive the data representing the video image from the transmitter. (See Wood abstract), a remote receiver coupled to the transmitter for allowing the user to remotely control the medical device through the receiver by issuing remote control command , (See Abstract, and col. 12, lines 52-62), a packet switch network wherein the remote receiver is coupled to the transmitter through the network (See Wood col. 3, lines 60-66).

It is noted that Wood is silent about a medical test device for generating the stream of video image from his ultrasound.

However, McDonald discloses medical test device for generating the stream of video image from his ultrasound (See McDonald col. 4, lines 15-18).

Therefore, it is considered obvious that one skilled in the art at the time of the invention would recognize the advantage of providing video image streaming. The skilled artisan would be motivated to incorporate McDonald's teachings into Woods for the purpose of transmitting them over a wide area network including the internet so that medical staff may view the images from remote location.

As per claim 24, Wood further discloses a system wherein the medical test device is one of an ultrasound, a sonogram, an echocardiogram, and an angioplastigram. (See Wood abstract and col. 6, lines 27-41)

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As per claim 26, Wood provides a system wherein the network is an Internet Protocol Network (See Wood col. 5, lines 23-49).

As per claims 27 and 34, Wood provides a system wherein the remotely controls parameters of the plurality of video images including frame rate and frame size (See Wood col. 10, lines 10-39).

As per claim 35, Wood further provides a system wherein said transmitter further comprises a compressor which can be configured to use a plurality of video compression algorithms and wherein said control command allows the remote user to select or change the selection of one of the plurality of video compressors compression algorithms to be used by the transmitter to process said digitized frames. (See Wood col. 10, lines 41-67, and col. 11, lines 10-24).

As per claim 36 Wood further provides a system wherein said control command allows the remote user to start or stop the transmission of said video (See Wood column 11, lines 10-24) wherein starting and stopping transmission of images is an inherent feature.

4. Claims 32, and 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood (US Patent no. 5715823 in view of MCDonald (US Patent no. 5920317) as applied to claims 23 and 33 above, and further in view of Gillio (US Patent no. 5,882,206) and Ostrow (US Patent no. 6,009,346).

As per claims 32, 38 and 40, Wood discloses a system of claim 23, said system further comprising a robotic device coupled to said transmitter, wherein said transmitter is configured to control said robotic device, and wherein said transmitter is configured to receive control commands from said user, and wherein at least one of said video images comprises a substantially live video, whereby said remote receiver receives and displays said live video substantially in real time, and whereby the remote user can control said robotic device with control commands while viewing said live video. See Wood column 11 lines 35-59 wherein Wood teaches that his system is capable of controlling the system remotely. While Wood acknowledges the needs of a pair of hands at the patient location, he makes no mention of using a mechanical device, both Gillio in column 17 lines 7-35 as well as Ostrow column 2 lines 23-26 do. Therefore at the time the invention was made it would have been obvious to one of ordinary skill in the art to replace a human with that of a robotic arm motivated by a desire to reduce labor expenses as taught by Ostrow in column 1 lines 5-11.

Furthermore, The use of a robotic device is interpreted as making the system automatic thus not needing a second person.

However, case law has previously settled that "it is not invention to broadly provide a mechanical or automatic means to replace manual activity which can accomplish the same result" In re Rundell, 18 CCPA 1290, 48 f.28 958, 9 USPQ 220. In this case a robotic arm would accomplish the same result as that of a person. As for the seeing the results in real time limitation of claim 38, it is clear that Wood fully intends for the user to see what is being done during a live examination. Furthermore Gillio clearly shows that any live medical procedure would have to have live video associated with it in order for the user to perform the surgery in real time.

As per claim 39 said system further comprising a robotic device coupled to said transmitter, wherein said transmitter is configured to control said robotic device, and wherein said transmitter is configured to receive control commands from said user through said remote receiver, and wherein said robotic device responds to said control commands in substantially real-time, and wherein said stream of video images comprises a substantially live video, whereby said remote receiver receives and displays said live video substantially in real-time, and whereby the remote user can control said robotic device with control commands while viewing said live video, whereby the remote user can perform procedures with the robotic device and the medical device with substantially real-time control and real-time visual feedback. (See Gillio column 17 lines 7-35. While he is not specific as to how his device is coupled, it would have been obvious to one of ordinary skill in the art to that if the robotic device

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were to be controlled remotely it would have to be controlled via a transmitting device and the video would have to be sent to the user in real time.

Regarding claim 40, most of the limitations of this claim have been noted in the above rejection of claim 37. In addition, according to Wood figure 1 items 42 and 44, any transmission medium is considered to be a data pipe capable of achieving the desired result. In addition, the listener connected to the video server for making socket connections, note that any internet device will inherently contain devices see Wood column 5 lines 49-60.

As per claim 41, the above combination further teaches a transmitter further comprising a video recorder connected to the video control and video server for recording the stream of video images for Eater playback as a recorded video; send a recorded video transmitter for transmitting said recorded video to at least said one or more receivers via a recorded video data pipe; wherein at least one of said receivers further comprises: (See McDonald figure 1 item 30) a video player connected to said recorded video data pipe and said video client and said video control whereby said recorded video is received and displayed to said user; (See McDonald figure 1 item 26) whereby said user can control the recording of portions of said stream of video images in one or more instances of said recorded video and can control the selection and playback of at least one of said instances of said recorded video. (See McDonald column 9 line 62 through column 10 line 15).

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As per claim 42, the proposed combination further teaches a system wherein said video recorder further comprises an edit list, said edit list comprising a list of one or more segments of the recorded video, whereby specified portions of the recorded video can be deleted for transmission. (See McDonald column 10 lines 16-25).

As per claim 43, the proposed combination further teaches a system wherein said video recorder further comprises an edit list, said edit list comprising a list of one or more segments of the recorded video, whereby specified portions of the recorded video can be selected for special processing. (See McDonald column 10 lines 16-40).


5. Claims 1-5, and 7 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gims S. Philippe whose telephone number is (571) 272-7336. The examiner can normally be reached on M-F (10:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dastouri S. Mehrdad can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gims S Philippe
Primary Examiner
Art Unit 2613

GSP

January 4, 2006